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** E-filed January 28, 2011 **

6 Attorneys for Defendants
SELECT BRANDS, INC. and
7 TARGET CORPORATION

8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA

10 THOMAS SPILSBURY, JR.) Case No.: CV 09 5955 JW
11 Plaintiff,)
12 vs.)
13 TARGET CORPORATION, SELECT)
14 BRANDS, INC, and DOES 1-25, inclusive,)
15 Defendants.)
16

NOTICE OF WITHDRAWAL OF
MOTION FOR PROTECTIVE ORDER
SCHEDULED FOR HEARING ON
FEBRUARY 1, 2011

17 WHEREAS, on November 17, 2010, after engaging in extensive meet and confer efforts,
18 Defendants Select Brands, Inc. and Target Corporation filed a Motion for Protective Order, along
19 with a Request to Set the Hearing on Shortened Time;

20 WHEREAS, on December 24, 2010, the Court denied the Request to Set the Hearing on
21 Shortened Time and set the Hearing Date on Defendant's Motion for Protective Order on
22 February 1, 2011;

23 WHEREAS, on January 11, 2011, after the parties engaged in exhaustive meet and confer
24 efforts for several months reached a stipulation addressing some of the issues set forth in
25 Defendants' Motion for Protective order;

26 WHEREAS, on January 18, 2011, the Court denied the proposed order (Denial of
27 Stipulation, Docket #75).

1 WHEREAS, on January 25, 2011, Defendants Select Brands, Inc. and Target Corporation
2 withdrew their Motion for Summary Judgment without prejudice, which was scheduled to be heard
3 February 28, 2011, based upon Plaintiff disclosing new information on January 21, 2011 (Docket
4 #90);

5 WHEREAS, the withdrawal of Defendants' Motion for Summary Judgment has rendered
6 moot the majority of the issues raised in Defendants' Motion for Protective Order. Accordingly,
7 Defendants believe withdrawing the Motion for Protective Order is appropriate;

8 WHEREAS, on January 28, 2011, counsel for Defendants prepared and executed a
9 Stipulation and Order to Withdraw Defendants' Motion for Protective Order and sent it to
10 Plaintiff's counsel (a copy is attached hereto);

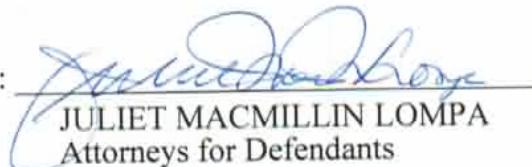
11 WHEREAS, after waiting four hours, Plaintiff's counsel has not returned the proposed
12 Stipulation;

13 Defendants SELECT BRANDS, INC. and TARGET CORPORATION, by and through
14 their attorney of record, hereby withdraw their Motion for Protective Order scheduled for hearing
15 on February 1, 2011, without prejudice to re-filing the motion with regard to issues that remain in
16 dispute.

17 STONE & ASSOCIATES

18
19 January 28, 2011

20 By:


21 JULIET MACMILLIN LOMPA
22 Attorneys for Defendants
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7 SELECT BRANDS, INC. and
TARGET CORPORATION

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

10 THOMAS SPILSBURY, JR.) Case No.: CV 09 5955 JW
11 Plaintiff,)
12 vs.) STIPULATION AND ORDER RE:
13 TARGET CORPORATION, SELECT) WITHDRAWAL OF MOTION FOR
14 BRANDS, INC, and DOES 1-25, inclusive,) PROTECTIVE ORDER SCHEDULED
15 Defendants.) FOR HEARING ON FEBRUARY 1,
) 2011
)
) Complaint Filed: September 22, 2009

16 IT IS HEREBY STIPULATED, AGREED AND JOINTLY REQUESTED by the parties,
17 by and through their respective attorneys of record, that Defendants' Motion for Protective Order
18 scheduled for hearing on February 1, 2011 be withdrawn, without prejudice to re-filing the motion
19 with regard to issues that remain in dispute.

20 | IT IS SO AGREED,

CORSIGLIA McMAHON & ALLARD, LLP

January ___, 2011

By: _____
TIMOTHY D. McMAHON
Attorneys for Plaintiff

24 IT IS SO AGREED.

STONE & ASSOCIATES

26 | January 28, 2011

By: JULIET MACMILLIN LOMPA
JULIET MACMILLIN LOMPA
Attorneys for Defendants

Defendants' motion for a protective order (Docket No. 53) is TERMINATED without prejudice per Defendants' request (Docket No. 91), and the February 1, 2001 hearing is VACATED.

1 PURSUANT TO STIPULATION, IT IS SO ORDERED,

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3 Dated: January 28, 2011

By:

HOWARD L. LLOYD
United States Magistrate Judge

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